

REMARKS

With the addition of claims 28 and 29, claims 15 to 19 and 21 to 29 are currently pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statements, PTO-1449 papers, and cited references. However, Applicants note that, with respect to one of the listed references, while the Examiner has initialed the reference, the reference also appears to have been crossed out. Applicants therefore request clarification as to whether the reference has been considered.

Applicants note with appreciation the indication the drawings, as amended on August 14, 2008, have been accepted.

New claims 28 and 29 essentially correspond to previously canceled claims 14 and 20 respectively. Claims 28 and 29 do not add new matter and are fully supported by the application, including specification, as originally filed. The patentability of claims 28 and 29 is discussed below with respect to the rejected claims.

Claims 15 to 19 and 27 were rejected under 35 U.S.C. 103(a) as unpatentable over the combination of U.S. Patent No. 6,674,805 (the “Kovacevic” reference) and U.S. Patent No. 6,816,491 (the “Fuji” reference).

To reject a claim as obvious under 35 U.S.C. § 103, the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied.

First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). As clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated

reasoning with some rational underpinning to support the legal conclusion of obviousness.”
Id., at 1396.

Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986).

Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). As explained herein, the Office Action does satisfy these requirements as to all of the features of the claims.

Claims 15, 18, and 19 have been amended herein without prejudice, so that claims 15 to 19 and 27 ultimately depend from claim 28. The claims are therefore discussed in the context of the patentability of independent claim 28. Claim 28 relates to a method for generating a counter in a receiving device for digital data streams, and provides for “generating the digital data streams in a transmitting device **by sampling analog signals at a sampling frequency synchronized by a system time clock in the transmitting device.**” The “Kovacevic” reference does not disclose or suggest this feature. Indeed, the Office Action asserts, with reference to Fig. 50 of the “Kovacevic” reference, that “since all the units work at digital mode, it inherently means that the **incoming signal is in digital form.**” Office Action, page 2, (emphasis added). Thus, the Office Action concedes that the incoming signal of the “Kovacevic” reference is in digital mode. It logically follows that an analog signal is **not** sampled in the transmitting device, let alone at the frequency synchronized by a system time clock.

Still further, the Office Action conclusorily asserts that “the time base of 27 MHZ has been interpreted as **sampling frequency.**” Office Action, page 2, (emphasis added). In support of this assertion, the Office Action refers to column 2, lines 27 to 32 of the “Kovacevic” reference, which states that “[t]he time base of the STC and the encoder system is appropriately 27 MHz. To prevent overflow or underflow of received compressed bit stream buffers, the STC counter associated with the MPEG-2 decoder has to be synchronized to the 27 MHz time base of the system encoder with an accuracy of 1 Hertz.” It is respectfully submitted that the cited section does not support the Office Action’s contention. Nothing in the cited section, nor any other section of the entire “Kovacevic” reference, suggests that there is a sampling of data in the transmitting device. Further, the mere mentioning of a certain frequency (i.e., 27 MHz) does not suggest **sampling** but merely a **clocking frequency**. Thus, the interpretation that 27 MHz is a sampling frequency is unsupported, particularly in light of the fact that the “Kovacevic” reference is replete with

dividers, which can substantially modify internal frequencies. The secondary “Fuji” reference does not cure, and is not asserted to cure, these critical deficiencies.

Furthermore, claim 28 provides for “determining the **sampling frequency** of one of the data streams in the receiving device.” The “Kovacevic” reference does not disclose or suggest this feature. As explained above, nothing in the “Kovacevic” reference suggests sampling analog signals at a sampling frequency, let alone **determining** the sampling frequency of a data stream in a receiving device. The Office Action conclusorily asserts, with reference to block 5020, that “the output of STC register [corresponds to] the sampling frequency value.” Office Action, page 3. However, this assertion is unsupported. For example, the output of STC Register (4810) is merely described as “a combination 33-bit STC base register and nine bit STC extension register.” The “Kovacevic” reference, column 40, lines 28 to 30. Thus, there is no discussion of it representing a sampling frequency, let alone any discussion of **determining the sampling frequency** of one of the data streams in the receiving device, as provided for in the context of claim 28. The secondary “Fuji” reference does not cure, and is not asserted to cure, this critical deficiency of the “Kovacevic” reference.

For all of the foregoing reasons, the combination of the “Kovacevic” and “Fuji” references does not disclose or suggest all of the features of claim 28, so that the combination of the “Kovacevic” and “Fuji” references does not render unpatentable claim 28 or any of its dependent claims, e.g., claims 15 to 19.

Withdrawal of this obviousness rejection of claims 15 to 19 and 27 is therefore respectfully requested.

Claims 21 to 26 were rejected under 35 U.S.C. 103(a) as unpatentable over the combination of U.S. Patent No. 6,363,207 (the “Duruo” reference), the “Kovacevic” reference, the “Fuji” reference, and U.S. Patent No. 6,988,238 (the “Kovacevic-2” reference).

Claims 21, 24, and 26 have been amended herein without prejudice so that claims 21 to 26 ultimately depend from claim 29. The claims are therefore discussed in the context of the patentability of independent claim 29. Claim 29 relates to a receiving device and provides for a synchronization unit for synchronizing a counter according to a sampling frequency. As explained above in support of the patentability of claim 28, the combination of the “Kovacevic” and “Fuji” references does not disclose or suggest this feature. The combination of the “Duruo” and “Kovacevic-2” references are not asserted to correct, and indeed for not correct, this critical deficiency of the combination of the “Kovacevic” and

“Fuji” references. Thus, the combination of the “Duruož,” “Kovacevic,” “Fuji,” and “Kovacevic-2” references does not disclose or suggest all of the features of claim 29, so that the combination of the “Duruož,” “Kovacevic,” “Fuji,” and “Kovacevic-2” references does not render unpatentable claim 29 or any of its dependent claims 21 to 26.

As further regards claim 21, which provides that “the synchronization unit sets an increment of the counter, the increment being determined from a ratio between a program clock reference and a nominal sampling frequency,” the Office Action concedes that the “Duruož” reference does not disclose this feature. The Office Action instead relies on the “Kovacevic” reference to cure this critical deficiency. However, as explained above, the “Kovacevic” reference does not disclose or suggest synchronizing the counter according to the sampling frequency. Further, there is no discussion in the “Kovacevic” reference of the increment of the counter being determined from **a ratio between a program clock reference and a nominal sampling frequency** as provided in the context of claim 21. The “Fuji” and the “Kovacevic-2” references do not cure, and are not asserted to cure, this critical deficiency of the “Duruož” and “Kovacevic” references. For this additional reason, the combination of the “Duruož,” “Kovacevic,” “Fuji,” and “Kovacevic-2” references does not disclose or suggest all the features of claim 21, so that the combination of the “Duruož,” “Kovacevic,” “Fuji,” and “Kovacevic-2” references does not render unpatentable claim 21 for this additional reason.

Withdrawal of this obviousness rejection of claims 21 to 26 is therefore respectfully requested.

Accordingly, all of pending claims 15 to 19 and 21 to 29 are in condition for immediate allowance.

Conclusion

In view of the foregoing, it is respectfully submitted that all of pending claims 15 to 19 and 21 to 29 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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